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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,658	12/17/2001	Neil Brendon O'Leary	93214.034	1777
7590	01/27/2004		EXAMINER	
Paul F. Wille 6407 East Clinton Street Scottsdale, AZ 85254			KRIZEK, JANICE LEE	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/022,658	O'LEARY ET AL.
	Examiner Janice L. Krizek	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 November 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 6-10 is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.



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1. The drawings are objected to because the reference numeral "75" has been used in Fig. 5 to designate a wheel and in Fig. 7 to designate a foot. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. It is noted here that the corrected drawing sheets filed February 6, 2003 do not include Figs. 5 or 7. Therefore, the above drawing change has not been previously addressed.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "a load sensor actuated by rotation of the platform as a load is applied to said platform", found in claim 1, is inaccurate and unclear. The load sensor is actuated in response to the weight of the platform, not the rotation of the platform. Also, it is not clear how a load is applied to the platform as the platform is rotated.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamann et al.

Hamann et al. disclose an external lift 16 for a scooter 14 including post 330, platform 12 and load sensor 34. Re claims 2 and 3, note lock mechanism 300 of Hamann et al's. lift. Re claim 4, note roller 52 coupled to platform 12 which engages ramp 58 of Hamann et al's. lift as depicted in Fig. 8 of Hamann et al.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruno et al.

Bruno et al. disclose an external lift 50 for a scooter 70 including post 80, platform 500 and load sensor 222 (note column 9, lines 26-35 of Bruno et al.). Re claims 2 and 3, note lock mechanism 104, 220 of Bruno et al's. lift. Re claim 4, note roller 110 and ramp 104 of Bruno et al's. lift. Re claim 5, note the hold down 600 of Bruno et al's. lift.

7. Claims 6-10 are allowable.

8. Applicant's arguments filed November 17, 2003 have been fully considered but they are not persuasive.

As applicants emphasize, Claims 1-5 "recite actuation by the rotation of the platform, not the weight of the platform". The description of the function of the load sensor recited in claim 1 as being "actuated by rotation of the platform as a load is applied to said platform" is inaccurate. For example, page 5, lines 11-15 of the specification describe that a "weight anywhere on the platform causes further compression of spring 24 and, therefore, prevents the platform from being rotated as it is raised...as little as thirty pounds on the platform was sufficient to prevent the platform from rotating as it was raised". Hence, the claimed load sensor senses a load on the

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platform and in response prevents rotation of the platform. The claim should instead recite "a load sensor detecting a load on the platform and preventing rotation of the platform".

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Janice Krizek whose telephone number is (703) 308-2026. The examiner can normally be reached on Mondays through Fridays from 9:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached at (703) 308-3248. The central official fax number is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Center receptionist whose telephone number is (703) 308-1113.

jlk  
January 26, 2004

*Janice L. Krizek 1/26/2004*  
Janice L. Krizek  
Primary Examiner  
Technology Center 3600